C.R.No.3/05

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL REVISION PETITION NO.3/2005

Ramji Lal Vs. Ramdhan

DATE OF ORDER :: 27/11/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Mukesh Pal on behalf of Mr. Anurag Sharma, for petitioner
Mr. Amit Choudhary, for respondent

***

Instant revision petition has been filed by the petitioner-plaintiff against the order dated 16th November, 2004 in the proceeding initiated under O.39 R.2A read with Section 151 CPC.

Plaintiff-petitioner filed a suit for injunction in 1993 and the learned trial Judge after hearing both the parties passed the order of injunction on 25th September, 1993, which is reproduced as under:

> "दिनांक 25.9.93 को दोनो पक्षों कि बहस सुनने के बाद न्यायालय ने दावे के फैसले तक पत्रावली पर उपलब्ध कमिश्नर रिपोर्ट दिनांक 15.7.93 के अनुसार विवादित जगह की यथा स्थिति बनाए रखने के लिए दोनो पक्षों को पाबन्द किया है तथा प्रार्थी रामजीलाल को आदेश दिया कि वह अपने मकान का पानी "ए" से "जी" दीवाल में स्थित "पी" परनाले से ही निकाल सकेगा जिसका उपयोग रामधन अप्रार्थी नहीं करेगा तथा रामधन को पाबन्द किया गया कि वह रामजीलाल को अपने मकान की मरम्त पौल मे से जाकर करने से नहीं रोकेगा।"

The plaintiff considered that the defendant is disobeying and violating the order of injunction of the trial Judge dated 25th September, 1993, initiated

contempt proceedings by filing application under O.39 R.2A read with Section 151 CPC. Learned trial Judge after taking into consideration the material, which has come on record, finally held that the defendant is guilty with regard to disobedience of the order referred to supra and punished him with civil imprisonment of three months. Against which, the defendant-respondent filed appeal, which was allowed by the learned Appellate Judge vide order dated 16th November, 2004. Against which, the instant revision petition has been filed by the petitioner-plaintiff.

I have gone through the material, which has come on record and find that the Appellate Court has taken note of all the submissions made and held that there was no wilful disobedience on the part of defendant-appellant and I do not find any error committed by the learned First Appellate Court in recording finding under the order impugned and it does not require any interference by this court in the instant revision petition.

Consequently, the present revision petition is dismissed.

It has been informed to this court that the suit filed by the plaintiff for injunction is still pending which is of 1993. If that be so, the learned trial Judge is directed to dispose of the main suit expeditiously looking to its long pendency. Record of the case be sent back to the trial court. Copy of this order be sent to the learned trial Judge for necessary compliance.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.